IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Bail Appl..No. 6997 of 2006()

CRIME NO.37/05 OF VALAPPAD POLICE STATION

APPELLANT/ACCUSED

SHIBU, S/O.SOBHANAN,
THANDASSERI HOUSE,
VADAKKUMURI P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.P.K.ASHOKAN
SMT.DHANYA P.ASHOKAN

RESPONDENTS:

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1. THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE C.I. OF POLICE,
VALAPPAD POLICE STATION.

BY PUBLIC PROSECUTOR SHRI JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

B.A.No. 6997 OF 2006

DATED THIS THE **28th** DAY OF NOVEMBER, 2006

O R D E R

Petitioner who is the accused in Crime No.37/05 of Valappad Police Station for offences punishable under sections 307 and 376 IPC, seeks anticipatory bail.

2. An earlier application for anticipatory bail filed by the petitioner as B.A.No.5514/06 was dismissed by this court on 13.9.2006. It is thereafter that the petitioner has filed the present application.

3. The learned counsel for the petitioner made the following submissions:-

The alleged rape was committed on 26.6.2004, the alleged attempt of murder was committed on 28.1.2005 and the complaint was actually filed on 6.4.2006 and that itself will show that it was a false complaint. The de facto complainant has been working in the shop of the petitioner since November, 2002. When the earlier application for bail was disposed of, the petitioner was in the dark about the circumstances under which

the de facto complainant had attempted to commit suicide. The police had originally registered the very same crime for an offence punishable under section 309 IPC. Annexures E and F letters by the de facto complainant will indicate that she had some mental turmoil. But both these letters did not point an accusing finger at the petitioner and this court while disposing of the earlier application for bail had no occasion to consider these circumstances.

4. The earlier application for anticipatory bail was disposed of only on 13.9.2006. The alleged attempt to commit suicide by jumping from the flat situated on the 3rd floor of a building was from the flat where the petitioner is residing and the purpose for which the victim had gone there is not known from the records available before court. At any rate Annexure-D wound certificate prepared from the Amrita Institute of Medical Sciences on 29.1.2005 indicates that the victim was chased by someone. So she was chased by someone and it was out of fear that she presumably attempted to commit suicide by jumping from the building. That also cannot be taken as a change of circumstance justifying the grant of anticipatory bail. It is too

early to conclude that the allegations against the petitioner are totally false. I am not inclined to grant anticipatory bail to the petitioner. There is no reason why the petitioner should not seek regular bail. Accordingly, if the petitioner surrenders before the Magistrate concerned and files an application for regular bail within 10 days from today, the same shall be considered and disposed of, preferably on the same date on which it is filed.

With this observation, this petition is disposed of.

V.RAMKUMAR, JUDGE

dsn